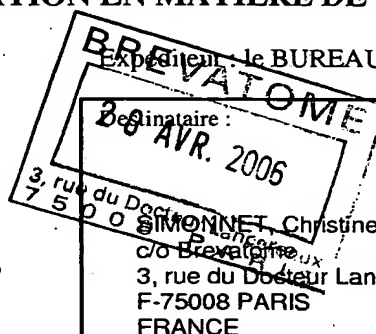


PCT

NOTIFICATION DE TRANSMISSION DE COPIES
DE LA TRADUCTION DU RAPPORT D'EXAMEN
PRELIMINAIRE INTERNATIONAL
SUR LA BREVETABILITE (CHAPITRE I OU CHAPITRE II
DU TRAITE DE COOPERATION EN MATIERE DE BREVETS)

(règles 44bis.3.c) et 72.2 du PCT)



Date d'expédition (jour/mois/année) 13 avril 2006 (13.04.2006)	NOTIFICATION IMPORTANTE
Référence du dossier du déposant ou du mandataire B14352.3 DB	
Demande internationale n° PCT/FR2004/050289	Date du dépôt international (jour/mois/année) 24 juin 2004 (24.06.2004)
Déposant COMMISSARIAT A L'ENERGIE ATOMIQUE etc	

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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference B14352.3 DB	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/FR2004/050289	International filing date (day/month/year) 24.06.2004	Priority date (day/month/year) 27.06.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant COMMISSARIAT A L'ENERGIE ATOMIQUE		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/050289

Box No. 1

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-20 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-7 _____ received by this Authority on 20.01.2005 with letter
- nos.* _____ received by this Authority on of 17.01.2005
- ☒ the drawings:
- sheets 1/4-4/4 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/050289

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims	5	YES
Claims	1-4, 6, 7	NO

Inventive step (IS)

Claims		YES
Claims	1-7	NO

Industrial applicability (IA)

Claims	1-7	YES
Claims		NO

2. Citations and explanations (Rule 70.7)

1. In the present report, reference is made to the following documents:

D1: US 5 097 135 A (MAKINO TOHRU ET AL) 17 March 1992
(1992-03-17);

D2: FR-A-2 522 150 (STRAHLEN UMWELTFORSCH GMBH) 26
August 1983 (1983-08-26).

2. The present application fails to meet the requirements of **PCT Article 33(1)**, since the subject matter of **independent claim 1** does not comply with the criterion of novelty as defined by **PCT Article 33(2)**.

- 2.1 In comparison to **claim 1**, D1 describes a method for metering a biological or chemical sample, comprising a step of illuminating the sample by means of a light beam from a source (cf. column 7, line 61 to column 8, line 11), which method further comprises the following steps;

- an image is created including the image of the beam diffused by the sample (cf. column 8, lines 14 to 17);
- the image is analysed according to reference criteria (cf. column 8, lines 17 to 19);
- information specific to the interaction between

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability:
citations and explanations supporting such statement

- the light beam and the sample is retrieved (cf. column 10, lines 1 to 12);
- the metered amount is calculated (cf. column 10, lines 13 to 15);
- said analysis consists in studying the spatial structure of the image and the distribution of the light energy in said image (cf. column 9, lines 54 to 58).
- 2.2 D1 is indeed considered to disclose an analysis of the image, since it describes how to obtain, for example, the calcium concentration by comparing image elements to other pre-recorded image elements (cf. column 10, lines 9 to 15). In particular, the analysis methods listed in the description (see page 12, last paragraph) are not included in said claim and moreover are regarded as standard.
3. **Dependent claims 2 to 4, 6 and 7** fail to meet the requirements of novelty of **PCT Article 33(2)**.
Dependent claim 5 does not comply with the criterion of inventive step as defined by **PCT Article 33(3)**.
- 3.1 D1 also discloses the additional features of **claims: 2** (cf. column 8, lines 25 to 29), **3** and **7** (cf. column 8, lines 20 to 23), **4** (cf. figure 3) and **6** (cf. column 2, lines 29 to 34).
- 3.2 The additional features of claim 5 are already known from D2 (cf. page 1, lines 4 to 11).